



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MOP/171733

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed January 26, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Public Assistance Collection Unit in regard to Medical Assistance (MA), a hearing was held on May 10, 2016, at Madison, Wisconsin.

The issue for determination is whether the Department erred in its finding that petitioner was a resident of LA for Medicaid eligibility and overpayment purposes after July 20, 2015.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

;

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Public Assistance Collection Unit  
PO Box 8938  
Madison, WI 53708-8938

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Louisiana for purposes of MA.
2. Petitioner had been a member of a MA case in WI.
3. In May or June of 2015 the family moved to Louisiana to pursue an educational program. The family maintains some ties with WI.

4. On July 20, 2015, an application was filed in the state of LA for petitioner to receive Medicaid. Benefits were granted.
5. The Department issued overpayment notices to petitioner for the period from 9/1/15 to 12/31/15.
6. Petitioner appealed.

### DISCUSSION

The *BadgerCare Plus Eligibility Handbook* contains several relevant policies about the program. First it states that to be a resident the person must meet the following two requirements:

1. Be physically present in Wisconsin. (There is no minimum requirement for the length of time the person has been physically present in Wisconsin.) and
2. Express intent to reside in Wisconsin.

*BadgerCare Plus Eligibility Handbook*, § 3.1.

Concerning absences from Wisconsin, it states:

Once established, Wisconsin residency is retained until:

1. The person notifies states [sic] that they no longer intend to reside in Wisconsin,
2. Another state determines the person is a resident in that state for Medicaid/Medical Assistance,
3. Other information is provided that indicates the person is no longer a resident.

*BadgerCare Plus Eligibility Handbook*, § 3.5.

Finally, the *Handbook*, § 3.5.1, states that “[t]emporary absence ends when another state determines the person is a resident there for Medicaid/Medical Assistance purposes.”

Petitioner applied for Medicaid in Louisiana while still receiving those benefits in WI. At that time, WI MA continued the enrollment of petitioner in the WI MA program maintaining enrollment through payment of capitation rate payments. The petitioner’s relocation to Louisiana was not reported to the state or any agency.

Petitioner did not dispute the calculations of the Department. Petitioner argument was that the determination of an overpayment is error as a matter of law. Petitioner conceded at hearing that the family relocated to Louisiana for an educational program. Petitioner argues that the family has not established residency in Louisiana. Petitioner argues that the family still owns real estate in Wisconsin, that voter registration remains in Wisconsin, that driver’s licenses remain in Wisconsin. But, those are not the tests to determine when Wisconsin Medicaid eligibility ends. The test is whether another state determines the person is a resident in that state for the purposes of Medicaid eligibility. Louisiana did so. Petitioner inexplicably stated that there was no intent to “double-dip” on the Medicaid program. But, petitioner also seemed to argue that petitioner wished to keep the Wisconsin Medicaid in the event the family needed Wisconsin coverage when the family was occasionally present in the state of Wisconsin. Petitioner also argued that the benefits in WI were not actually used by petitioner during the overpayment period. But, petitioner’s overpayment is comprised of capitation payments made during the period which are paid on petitioner’s behalf whether the benefits are utilized or not.

This is not a close case. Petitioner’s arguments are not logical and undermine his credibility. I understand the interest in throwing things at the wall to see what sticks. Later in the hearing Mr.

Leichsinring explained that his wife handles most of these types of issues and that he was “blissfully ignorant.” This is misunderstanding is the most likely explanation for the overpayment. Certainly the agency is on solid ground in its finding of the overpayment.

### **CONCLUSIONS OF LAW**

The determination of the overpayments was not error as the family resided in LA for purposes of Medicaid eligibility after June 2015.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 3rd day of June, 2016

---

\sJohn P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 3, 2016.

Public Assistance Collection Unit  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability